

### **REMARKS**

Claims 1 – 12 are pending in this application. Claims 1 – 3, 5, and 6 have been amended to remove reference numbers and correct typographical errors.

### **SPECIFICATION**

In a Non-Final Office Action mailed December 30, 2008, the specification was objected to because of informalities. The specification has been amended herein to overcome this objection.

### **CLAIM REJECTIONS – 35 USC §112**

Claims 8 and 10 have been rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 8 and 10 have been amended to overcome this rejection.

### **CLAIM REJECTIONS – 35 USC §102**

Claim 8 has been rejected under 35 USC 102(e) as being anticipated by Marcus et al. (US Patent Application Publication No. 2002/0187253, hereinafter “Marcus”). Claim 8 has been amended to include the limitations of claim 11. Therefore, the patentability of the amended claim 8 will be discussed below under the rejection of claim 11.

### **CLAIM REJECTIONS – 35 USC §103**

Claims 1 and 10 have been rejected under 35 USC 103(a) as being unpatentable over Marcus. This rejection is respectfully traversed. With respect to claim 1, in Marcus, when the heater controller is out of line-of-sight with said chemical source, it is not electrically connected to the heater controller. See FIG. 7 of Marcus. Since the original claim 1 stated both that the heater controller is electrically connected to the deposition accumulation sensor to control the heating of the source and also that the deposition accumulation sensor was out of line-of-sight with the chemical source, Marcus did not read on the claim, nor make it obvious. Unless expressly stated otherwise, the structure is recited as it exists in an operational state. Otherwise, every claim would be obvious, because essentially every invention is a combination of known parts, and known parts can always be assembled in any

conceivable way, if there is no requirement of the device being operational. However, this inherent connection has been added to the claim in case it was not clear to the Examiner. Actually, Marcus teaches against this electrical connection when the sensor is out of the line-of-sight, since it expressly teaches that the electrical connection should be broken when the sensor is being cleaned and is out of line-of-sight.

Claim 10 is patentable at least because it depends on the amended and patentable claim 8.

Claims 2 and 9 have been rejected under 35 USC 103(a) as being unpatentable over Marcus in view of Hillman (US Patent No. 6,409,837, hereinafter "Hillman"). This rejection is respectfully traversed. Claims 2 and 9 are patentable at least because claim 2 depends on the patentable claim 1, and claim 9 depends on the amended and patentable claim 8.

Claims 3, 4, 11, and 12 have been rejected under 35 USC 103(a) as being unpatentable over Marcus in view of Siebert (US Patent No. 4,858,556, hereinafter "Siebert"). This rejection is respectfully traversed. Claims 3 and 11 recite that the pressure within the deposition chamber and the source space, respectfully, are controlled to be higher than the vapor pressure of the chemical source. The Office Action rejects these claims on the basis of the fact that Siebert discloses control valves, pressure sensors, and pressure controllers which allegedly maintain a specific pressure in the deposition chamber and source space. However, Siebert does not disclose, nor does the Office Action state that it discloses, that the pressure of the source space or deposition chamber is controlled to be higher than the vapor pressure of the chemical source. The MPEP states that the mere possibility that the prior art could be modified or made to cover the claimed element is not sufficient to establish a prima facie case of obviousness. See MPEP 2143.01 and 2144.08 IIA. Thus, claims 3, original claim 11, and amended claim 8 are patentable in view of the cited references. Claims 4 and 12 are patentable at least because they depend on a patentable claim. *In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) at headnote 4. These are also patentable because the claims claim an etch gas, while Siebert discloses a collimated ion beam etch, which processes are totally different.

Claim 5 has been rejected under 35 USC 103(a) as being unpatentable over Marcus alone or when taken in view of vanSlyke et al. (US Patent No. 4,720,432, hereinafter "vanSlyke"). This rejection

is respectfully traversed. This claim is patentable at least because it depends on a patentable claim. It is also patentable because it appears that vanSlyke does not teach deposition by chemical deposition but by electron transport.

Claims 6 and 7 have been rejected under 35 USC 103(a) as being unpatentable over Marcus alone or when taken in view of Endo et al. (US Patent Application Publication No. 2002/0172768, hereinafter "Endo"). This rejection is respectfully traversed. These claims are patentable at least because they depend on a patentable claim. It is also noted that, while Marcus teaches a pressure gauge, it does not disclose equalizing the pressure between a pressure-controlled reservoir and a deposition chamber.

In view of the above amendments and remarks, Applicant believes the pending application is in condition for allowance. Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-1848, under Order No. 020008.0111PTUS from which the undersigned is authorized to draw.

Respectfully submitted,  
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Dated: March 27, 2009

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